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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/488,019	01/20/2000	Yuji Kumakura	1614.1024	3839

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STAAS & HALSEY LLP  
700 11TH STREET, NW  
SUITE 500  
WASHINGTON, DC 20001

EXAMINER

KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 05/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/488,019

Applicant(s)

KUMAKURA, YUJI

Examiner

Chuck O Kendall

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

This Office Action is the response to the communication received on March 12, 2002 Amendment under 37 CFR § 1.111. Reconsideration of the instant application is requested by applicants. All such supporting documentation has been placed of record in the file. Claims 1-27 are pending in this application. Corrections have been made to rejections to reflect that prior art is being cited under 102(b).

### Response to Arguments

Regarding rejection of the claims 1-27 under 35 U.S.C. § 102(b): Examiner has evaluated applicant's arguments of March 12, 2002 correspondence which has been fully considered is not persuasive to overcome the previous rejection aforementioned, 35 U.S.C. 102(b) per, previous cited references. Regarding Applicant's response, Examiner Acknowledges Foreign Priority, as specified in Office Action Summary.

### Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Stupek Jr, et al USPN 5,586,304.

Re CLAIM 1,10 &19 (amended)

Stupek anticipates and information Processor with a control information retrieving part retrieving control information that is used to execute a program; [Stupek, 5:34, see control file]

a destination defining part defining destination address information indicating a location different from a current location where the program is stored ; [Stupek 5:40-42, see staging area part #(19) from fig 1]

a moving part moving the program in accordance with the destination address information; and [Stupek 5:43-46, see package directory]

a control information changing part changing the control information based on the destination address information. [Stupek 5:48-51].

With regards to claims 1,10, and 19, Applicant argues that prior art does not teach a destination part indicating a location different from a current location where the program is stored. Examiner disagrees. Per Stupek (Prior Art) invention, Stupek teaches installing in an N-tier Server environment. This in itself constitutes installing from destination to a target location. Specifically Stupek shows installing from a remote location where the program is hosted to a target location where the program is to be installed. Stupek further teaches a control file / control information as claimed in clients invention, a staging area (Temporary location other than the where the program resides/current location), and a packaging directory (where the program is being executed from) [see 5:25-51, and fig. 1 &2]. In general installation environments dealing with remote installation, utilizes destination and target locations. Therefore, Stupek does anticipate and provide support for Applicant's claimed limitation.

Regarding Applicant's argument that Stupek doesn't show moving with regards to a destination location. Examiner disagrees. Stupek shows a Staging area [fig.1(19)], which is a temporary area where the data is stored before it is mapped to corresponding package directories [see 5:45]. Regarding applicant's argument in claims (2,11, and 20), Applicant states that Stupek doesn't not show or suggest replacing a current location with a location to which the program is to be moved. Examiner disagrees. Stupek distinctly shows, in claim 12 "*replacing*

*on the server the first version of the resource with the second version*". As stated earlier the second version/newer version/install is received from another location first i.e. from the control file, then to the staging area and later to the packaging directory. Therefore, prior does teach replacing a current location with a location to which the program is to be moved.

### ***Conclusion***

This action is made Final Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action. see MPEP § 706.07 (a).

### **Correspondence Information**

Any inquires concerning this communication or earlier communications from the examiner should be directed to Chuck O. Kendall who may be reached via telephone at (703) 308-6608. The examiner can normally be reached Monday through Friday between 8:00 A.M. and 5:00 P.M. est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Greg Morse* can be reached at (703) 308-4789.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

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*For facsimile (fax) send to 703-7467239 official and 703-7467240 draft*

*Chuck D. Kendall*

*Software Engineer Patent Examiner*

*United States Department of Commerce*

  
GREGORY MORSE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100